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DEPARTMENT OF STATE

Memorandum of Conversation

DATE: July 21, 1947

SUBJECT: Copyright Provisions of Proposed Commercial Treaty with Italy.

PARTICIPANTS: Messrs. Simonis, Ippolito, Pennetta, Members of the Lombardo Mission.
Dr. Vogliolo, Commercial Counselor of the Italian Embassy.
Messrs. Vernon & Furman - IR
Messrs. Wilson, McClure, and Kennedy - CP

COPIES TO: Mr. Thorp - A-T
Mr. Nitze - ITP
Miss Brewster - ITP
Mr. Dowling - SE
Mr. Hollis - Le/E
American Embassy, Rome

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The meeting was held to discuss at greater length the copyright provisions of the proposed treaty of Friendship, Commerce, and Navigation with Italy. When paragraph 2 of Article VIII was first discussed at the meeting of June 19 (?), Mr. Simonis stated that the Italian Government considered such provision as inadequate and that a separate copyright agreement might be necessary. He would not further elaborate on the subject, however, stating that the matter could be taken up again following the arrival in the United States of an Italian expert on copyright. (The expert is Dr. Pennetta). Mr. Simonis stated that the Italian Government considers the granting of national treatment, as provided in paragraph 2 of Article VIII, as insufficient because the procedure required of Italians living in Italy in order to obtain benefit of copyright is troublesome and uncertain. It was explained to him that the procedure was actually simple. It was pointed out that copyright protection began as soon as the work was published in Italy with the prescribed notice of copyright, after which one copy of the work should be mailed to the Copyright Office, Library of Congress, Washington, D. C. along with the application for registration and the registration fee of $2.00.

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It was further pointed out to him that, while reasonably prompt registration and deposit of notice were advisable, these formalities were not absolutely necessary under the statute as interpreted by the Supreme Court, unless he wished to bring suit for infringement; if such necessity should arise, the work could be registered and copy deposited in Washington.

Mr. Simonis was asked whether the Italian Government did not agree that each MCP would want to give at least national treatment to the other, in which event the language of the draft treaty should stand, and he replied that while there was no objection to such language it did not go far enough to suit the Italian Government. He stated that although the procedure for obtaining benefit for copyright appears simple, it was actually difficult for an Italian living in Italy to be certain at that distance that his work has been received by the Copyright Office if he has personally mailed it direct to such Office, and that what he really has to do to obtain such certainty is to secure the services of a lawyer or other representative in the United States to handle the matter for him. He, therefore, made the following proposal on behalf of the Italian Government: (1) the proposed Treaty of Friendship, Commerce, and Navigation should provide that an Italian could bring a copy of his work to the American Embassy or Consulate in Italy with a request that it be mailed to the Copyright Office. If possible, the American Embassy or Consulate should issue a receipt for the publication, or (2) the two Governments could enter into an exchange of notes continuing in force the pre-1941 regime, thus assuring the Italians living in Italy the protection enjoyed by them under copyright proclamations of the President of the United States, issued on April 9, 1910, and May 1, 1915. The exchange of notes could operate as a modus vivendi on copyright protection until the United States adhered to an international convention under which Italy would be assured adequate treatment or the treatment provided for under the Pan American convention signed June 22, 1946.

Doubt was expressed by the members of the Department that the first suggestion was practicable since acceptance by the American Embassy or Consulate in Italy might be interpreted as actual registration with the copyright authorities of the United States Government. With respect to the second alternative, Mr. Simonis was informed that such a proposal might be feasible. It was suggested to the Italian Mission that Italian authors living in Italy could send a copy of their work through the Italian Embassy in Washington, which could take the appropriate registration steps. It was also suggested that information and guidance would be available at the Embassy of the United States at Rome, or at United States Consulates in Italy.

Mr. Simonis...

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Mr. Simonis stated that the Italian Society of Editors had long considered the American procedure for obtaining copyright protection as highly unsatisfactory, whereas the procedure required of Americans living in the United States and desirous of obtaining similar protection in Italy was considerably more simple. Therefore, on April 26, 1941 there was enacted an Italian law (No. 633, Articles 187 - 8 - 9), which required foreign authors living outside of Italy to go through the same copyright formalities in Italy as Italian authors were required to undergo in the United States. The operation of this law was suspended at the personal insistance of Dr. Pennetta on August 23, 1946, but Mr. Simonis stated that the Italian Government may find it necessary to again make it operative unless Italian authors enjoy more satisfactory treatment abroad. It was then pointed out to him that if the Italian Government took such a step, it might then be necessary for the United States Government to deny to Italian authors the protection granted them under the Presidential Proclamations mentioned above. He was then asked if he could provide any examples that the United States copyright procedure had injured any Italian authors as a result of the loss in the mails of the copies destined for the Copyright Office but the members of the Italian Mission could supply no instances.

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